HONOURABLE SRI JUSTICE B. SESHASAYANA REDDY

WRIT PETITION No.18146 OF 2002

Dated 06-12-2005

Between:

Mr. Nawab Shafath Ali Khan, son of Late Nawab Arshad Ali Khan, aged 45 years, Occupation : Business, resident of Ali Villa H.No.11-5-292, Hill Park Road, Red Hills, Hyderabad.

….Petitioner.

And :

1. The Commissioner, Rajendranagar Municipality, R.R. District and others.

…Respondents.

ORDER :

This writ petition has been filed by the petitioner with a prayer to issue a writ or direction to the 1st respondent not to grant sanction or permission to the respondents 2 to 6 to put up constructions over the land admeasuring Ac.06.26 cents comprising Survey No.425 of Budvel village, Rajendranagar Mandal, Ranga Reddy District without there being an approved lay out.

2. The 1st respondent filed counter affidavit. One B.V. Gangadhar Reddy, Municipal Commissioner has sworn to the counter affidavit. It is stated in the counter affidavit that Grampanchayat approved the layout in 1974 and building permissions came to be granted to certain individuals basing on the said lay out. It is further stated in the counter affidavit that notices under section 228 (1), (2) and (3) of A.P. Municipalities Act were issued to the persons who commenced the constructions without obtaining building permissions.

3. When this writ petition came up for hearing, there is no representation on behalf of the petitioner.

4. The learned Standing Counsel for the 1st respondent submits that the petitioner has already filed a suit in O.S.No.944 of 2001 on the file of the Principal Senior Civil Judge, Ranga Reddy District and thus, the relief sought for by the petitioner cannot be granted in the writ petition.

5. The 1st respondent has specifically stated that the petitioner has filed a suit being O.S.No.944 of 2001 for declaration of his title. It is stated by the respondent in the Counter-affidavit that notices have been issued to the persons who have put up unauthorized constructions. Paragraphs 7 and 8 of the counter affidavit reads as follows :

> "7. In the reply to paragraph 9, it is to submit that 3 constructions were started in the said area un-authorisedly for which the Respondent has issued notices under Section 228 (1), (2) & (3) of the A.P. Municipalities Act, 1965 and demolished one un-authorized construction of the 5th respondent Action being taken against in remaining 2 unauthorized constructions."
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> "8. In reply to paragraph 10, it is to submit that the Respondent Nos.2 and 3 are selling the plots to the people duly executing the registration and the Respondent Nos.2 and 3 have constructed their buildings long back. The respondent No.5 also constructed buildings un-authorisedly and the same has been demolished by the Respondent No.1. Hence the contents of the petitioner against inaction of the respondent No.1 is baseless. There are absolutely no merit considerations in this w.p. and the same is liable to be dismissed."

6. Since the 1st respondent has already initiated necessary proceedings against the persons who have put up unauthorized constructions and as the petitioner has resorted to file a civil suit to establish his right in respect of Survey No.425 of Budvel village, Rajendranagar Mandal, Ranga Reddy District, no further direction, except to complete the proceedings already initiated, need to be issued in this writ petition.

7. Accordingly, the writ petition is disposed of directing the 1st respondent to complete the proceedings initiated against the persons who commenced the constructions without obtaining building permission as expeditiously as possible. No costs.

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Justice B.SESHASAYANA REDDY

Date : 06-12-2005.

Note :

Issue CC in three days.

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Dvs

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